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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
Streamlining the Commission's Antenna)
Structure Clearance Procedure)

and)

Revision of Part 17 of the Commission's)
Rules Concerning Construction, Marking,)
and Lighting of Antenna Structures)

WT Docket No. 95-5

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REPLY COMMENTS OF AMERITECH

Ameritech Mobile Communications, Inc. ("Ameritech") respectfully offers the following reply to the initial comments on the Notice of Proposed Rulemaking ("NPRM") released in this docket on January 20, 1995.

Ameritech attaches antennas used in its business to many structures which it owns or leases and, therefore, is interested in any proposals to bring greater efficiencies to the process by which those antennas and structures are administered under the Commission's regulatory rules.

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I.

INTRODUCTION

The Commission makes several proposals in this docket to streamline its antenna structure clearance procedures and to revise its rules on the construction, marking and lighting of antenna structures. The Commission proposes to replace the current clearance procedures which apply to licensees and permittees with a uniform registration process for structure owners. The Commission also proposes to revise its Part 17 rules in keeping with updated recommendations by the Federal Aviation Administration ("FAA"). The Commission proposes to make owners primarily responsible for antenna structures which require painting and/or lighting.

The initial comments on the NPRM generally support the Commission's proposals. Ameritech generally supports those proposals, as well. However, given some of the specific comments on the NPRM which were filed in the initial round, a few additional points in reply are warranted.

II.

THE RESPECTIVE RESPONSIBILITIES OF THE OWNER AND THE LICENSEE SHOULD BE MORE SPECIFICALLY DEFINED.

Under the Commission's proposal, the primary responsibility for registration and maintenance of antenna tower structures is assigned to the owner. However, the Commission is "still recognizing the ultimate shared responsibility of licensees, permittees, and owners"¹ It is clear, therefore, that the tenants continue to have obligations for registration and maintenance of the tower structures should the owner fail to properly discharge its obligations. Given this potential exposure for "secondary" liability, the tenant likely will have to create new procedures, or retain all of the procedures currently in place, to verify the owner's compliance with the applicable rules for registration and maintenance. This, of course, would undermine the Commission's goal of making this entire process more efficient. The Commission should clarify the tenant's "secondary" responsibility,² specify those circumstances where that responsibility will come into play,³ explain what it expects of tenants in the way of monitoring the owner's compliance, and establish a notice requirement that will ensure

¹ NPRM at par. 21.

² Under no circumstances should the tenant be liable for the owner's failure to properly discharge its primary obligations.

³ AT&T suggests that tenant licensee should be allowed to voluntarily assume the primary responsibility for registration and maintenance. AT&T at 6-7. This suggestion makes sense as long as the appropriate registration forms identify the party primarily responsible.

that the tenant is made aware of the owner's failure to meet its obligations together with a reasonable "grace" period after receipt of such notice for the tenant to take the necessary action to bring the structure into compliance or to terminate its lease.⁴

III.

VARIOUS OTHER PROPOSALS IN THE NPRM ARE REASONABLE OVERALL, BUT SOME SPECIFICS SHOULD BE CLARIFIED.

Those filing initial comments identify several specific aspects of the NPRM which need additional clarification. Ameritech asks the Commission to consider the following four points in reply.

First, the Commission should make it clear that the only tower structures which need to be registered are those which require FAA clearance and, given the competitive implications of disparate regulations, all such towers should be regulated in the same manner under the Commission's rules. Once the FAA has satisfied itself that construction of the tower may begin, the owner should not have to wait for Commission's registration before beginning construction. Otherwise, the introduction of new services could be delayed unnecessarily.

⁴ On a different but related "grace period," the grandfathering provision described in paragraph 19 of the NPRM seems reasonable.

Second, the Commission's registration schedule should be flexible. The Commission proposed implementation options based on geographical location, tower height or license renewal.⁵ A reasonable alternative would be to have registration based on the number of towers owned. Those with more towers (e.g. 15 or more) could be given more time to register (e.g. 2 years). Those with fewer towers (e.g. 14 or less) could be given less time to register (e.g. 1 year). Milestone dates within each timeframe could be established to ensure a more uniform registration implementation.

Third, and regardless of the implementation schedule the Commission selects, a paperless registration should be available and the public should be given access to the electronic database wherein the registration information which is not proprietary (i.e. Form 854R) is maintained. This would greatly enhance the efficiencies of the entire process.⁶ However, until it has gained some experience with this database and determined what if any additional

⁵ Registration with license renewal could unnecessarily complicate the renewal process and appears somewhat at odds with the Commission's desire to place primary responsibility for registration with the owner of the tower structure.

⁶ Those efficiencies could be undermined, however, if the Commission requires periodic renewal requirements for registrants. If the Commission requires updates when changes occur, then additional registration renewal requirements are not necessary to ensure the integrity of the information in the database.

costs it generates over those costs saved, the Commission should not levy a registration fee to pay for this database. If it determines in the future that funds are needed to support the database, the Commission should consider some type of access fee.

Fourth, the Commission asks whether it should amend Part 17 so that antenna structures are located in terms of the nearest second and sized by height to the nearest meter; this would further define the Commission's current practice of locating antenna structures in terms of degrees, minutes, seconds and sizing by height in meters.⁷ Ameritech thinks the Commission should defer to the FAA on this question. Whatever standard is satisfactory to the FAA should be satisfactory to the Commission.

VI.

CONCLUSION

Ameritech commends the Commission for its effort in the NPRM to streamline its antenna structure clearance procedure and to modify its Part 17 rules so as to create additional efficiencies in the antenna structure registration and maintenance process. That goal will be enhanced even

⁷ NPRM at par. 16.

further if the Commission makes the modifications and clarifications which Ameritech has offered in this reply.

Respectfully submitted,

A handwritten signature in cursive script, reading "Michael Karson / tra". The signature is written in dark ink and is positioned above a horizontal line.

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April 20, 1995

CERTIFICATE OF SERVICE

I, Linda J. Jeske, do hereby certify that copies of the foregoing Reply
Comments of Ameritech were sent via first class mail, postage prepaid, this
20th day of April, 1995 to the parties of record in this matter.

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